

RECEIVED  
CENTRAL FAX CENTER

MAY 04 2005

---

**MEDLEN & CARROLL**

---

TO: Examiner Sullivan  
FAX: (571) 273-8300

FROM: Mary Ann Brow  
440 Science Drive, Suite 203  
Madison, WI 53711  
FAX: (608) 218-6910  
Phone: (608) 218-6900 ext. 236

Date: May 4, 2005 Time: \_\_\_\_ PM (PST)  
Pages (including cover): 3 Client Code: FORS-06612

---

The documents accompanying this facsimile transmission contain information from the law firm of MEDLEN & CARROLL which are confidential or privileged. The information is intended to be for the use of the individual or entity named on this cover sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents. Thank you.

---

Re: U.S. Serial No. 09/940,925  
Filed: 08/28/2001  
Our File: FORS-06612

Dear Examiner,

Attached, please find the corrected Terminal Disclaimer for the above application to be filed in the U.S. Patent Office. Applicant believes no fee is due. However, to the extent that a fee is due, Applicants authorize payment by Deposit Account No. 08-1290.

*Mary Ann Brow*  
Mary Ann Brow  
42,363

Re: U.S. Serial No. 10/128,174  
Filed: 04/23/2002  
Our File: UM-06967

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the attached Terminal Disclaimer (2 pages) is being sent via facsimile on the date shown below to Examiner Sullivan at 571/273-8300.

*Mary Ellen Waite*  
Mary Ellen Waite

DATE: 5-4-05

*[Handwritten Signature]*

RECEIVED  
CENTRAL FAX CENTER

PATENT

MAY 04 2005

Attorney Docket No. FORS-06612

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James E. Dahlberg, *et al.*

Serial No.: 09/940,925

Group No.: 1636

Filed: August 28, 2001

Examiner: Daniel M. Sullivan

Entitled:  
**DETECTION OF TARGET SEQUENCES BY  
CLEAVAGE OF NON-TARGET NUCLEIC  
ACIDS**

**TERMINAL DISCLAIMER TO OBLIGATE  
A DOUBLE PATENTING REJECTION  
OVER A PRIOR PATENT**

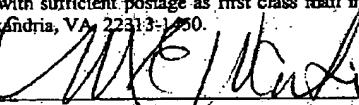
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)**

I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: May 4, 2005

By:

  
Mary Ellen Waite

Sir:

I, Mary Ann D. Brow, represent that I am an agent of record for this invention. The Assignee, Third Wave Technologies, Inc., 502 South Rosa Road, Madison, Wisconsin 53719, is the owner of one-hundred percent (100%) interest in the instant application. The assignment from the inventors was recorded in the Patent and Trademark Office at Reel 7808, Frame 0587.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173 of prior Patent No. 5,691,142 and hereby agrees that any patent so granted on the above-identified instant application shall be enforceable only for and during such period that the legal title to said patent be the same as the legal title to the above referenced patent, this agreement to run with any patent

**PATENT**

Attorney Docket No. FORS-06612

granted on the above-identified instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, in the event that Patent No. 5,691,142 should expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, have all claims cancelled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is empowered to act on behalf of the assignee.

Dated: May 4, 2005

  
\_\_\_\_\_  
Mary Ann D. Brown  
Reg. No. 42,363

MEDLEN & CARROLL, LLP  
101 Howard Street, Suite 350  
San Francisco, California 94105  
(608) 218-6900